

### REMARKS

In the above-mentioned Office Action, claims 17-20 were allowed, and, while objection was made to claims 2-8 and 11-16, the subject matter of such claims were acknowledged to recite patentable subject matter. Claims 1, 9, and 10 were rejected under Section 103(a) over the combination of *Walton* and *Dorne*.

The Applicants gratefully acknowledge the Examiner's allowance of claims 17-20 and indication of allowable subject matter of claims 2-8 and 11-16. The Applicants further acknowledge the Examiner's efforts to note with specificity the sections of the prior art references upon which reliance was placed to support the rejections of claims 1, 9, and 10.

The Applicants defer amendment to independent claims 1 and 10 or placement of the objected-to claims in independent form pending the Examiner's consideration of the following remarks.

The rejection of claims 1, 9, and 10 under Section 103 is traversed on two grounds. First, *Walton* fails to disclose the steps of determining the quantity of power available and the step of computing unused power  $\Delta$ . And, the references are not combinable for the reason that the references are not each directed toward solving the same problem to which the invention is also directed.

While the sections of *Walton* relied upon by the Examiner for showing the step of determining the quantity of power available makes reference to allocation of transmit power for each transmit antenna in a uniform or non-uniform manner, the relied-upon sections, as well as other sections, fail to disclose, or infer, that the quantity of power available for transmission from each transmit antenna is determined. Determination of the quantity of power available is different and distinct from mere allocation of transmit power. The Applicants further note that paragraph 59 states that a scheduler determines a proper rate of transmission of data streams and determines a proper order for processing data streams. But, the schedule is indicated merely to allocate transmit power uniformly or non-uniformly. That is to say, while other determinations are made by a scheduler, there is no disclosure, or inference to be drawn, that determinations are made of the quantity of power available for data transmission.

With respect to the step of computing unused power  $\Delta$  with reference to the quantity of power available, *Walton* also fails to disclose, or imply, this step. While paragraph 63 refers to terminal sets corresponding to a hypothesis, and paragraph 70 refers to multiple hypothesis matrices that are evaluated to determine specific combinations of terminals, there is no disclosure of the computation of unused power  $\Delta$  as recited in the step of computing.

Corresponding recitations of program code in claim 10 are analogously believed not to be disclosed in *Walton*.

The reliance on the common endeavor asserted by the Examiner to be shared by both *Walton* and *Dorne* of choosing a best combination is believed to be misplaced. The Applicants, to the contrary, believe that *Walton* and *Dorne* are directed toward solving different problems and that, additionally, the present invention is further directed toward solving a problem that is different than the problems intended to be solved by either *Walton* or *Dorne*. Namely, the present invention addresses the problem of efficiently utilizing power, that is, by minimizing unused power, available on each antenna of a system having multiple antennas. While *Walton* makes reference to power allocation, the disclosure is directed towards the constraint of not exceeding a maximum value. *Dorne* appears entirely to be unrelated to data transmission and transmit power levels at multiple antennas. And, instead, the reference appears to be directed towards providing a manner by which to manage resources, pursuant to resource planning, at a coarse-grain level.

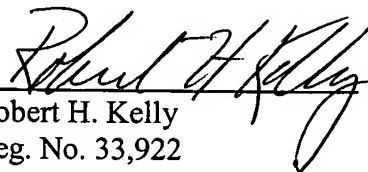
For these reasons, therefore, the rejection of claims 1, 9, and 10 under Section 103(a) over the combination of *Walton* and *Dorne* is respectfully traversed. Reexamination and reconsideration for allowance of these claims, in light of the foregoing remarks, is respectfully requested. Such early action is earnestly solicited.

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Respectfully submitted,

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